



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Board for Barbers and Cosmetology
<b>Virginia Administrative Code (VAC) citation</b>	18VAC41-60
<b>Regulation title</b>	Body Piercing Regulations
<b>Document preparation date</b>	December 27, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

*Code of Virginia § 54.1-201.5 gives authority to the Board for Barbers and Cosmetology to promulgate regulations. It states, in part, that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board."*

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

No viable alternatives for achieving the purpose of the existing regulation could be determined. The regulation enables the Board to fulfill the statutory requirements established in Chapters 2 and 7 of Title 54.1 of the *Code of Virginia*. Further, the regulation is necessary to ensure that the Board's statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Adam Forgette, Skin Thrills Tattoos	Expresses concern over the lack of regulatory and statutory enforcement of standards of practice and sanitation. Recommends the health department take a more active role.	<p>Beginning in July 2010, the Compliance and Investigations Division (“CID”) piloted a random inspection program for licensees of the Board for Barbers and Cosmetology. Random inspections were conducted in addition to regular processing of all complaints received. Random inspections allow DPOR to promote compliance among licensed shops, salons, spas, schools, and other facilities. To date, the CID has completed over 3,025 random inspections.</p> <p>The CID is also responsible for enforcing criminal laws under DPOR’s jurisdiction, including practicing without a license. After investigation, criminal matters are referred to local Commonwealth’s Attorneys for prosecution.</p> <p>The Board encourages anyone knowledgeable of a possible violation of the regulations or statutes to submit a complaint for review.</p>
Kathleen A. Russell, Inverness Corporation	<p>Represents Inverness Ear Piercing, a pre-sterilized ear piercing system manufacturer which supplies ear piercing products to retailers, physicians, and small salons.</p> <p>Current regulations for ear only are too restrictive and detrimental to small businesses. Ear only piercing is a valuable service for parents and children.</p>	Comments taken under advisement. Current regulations which affect ear piercing will be reviewed and may be considered in future regulatory review.
Fred Safford	Proposes an exemption to the requirements for a piercing license for ear only piercers.	<p>Section §54.1-701 of the <i>Code of Virginia</i> states provisions for exemption. Amendment to the <i>Code of Virginia</i> must be enacted by the General Assembly.</p> <p>The purpose of this periodic regulatory review is to determine whether the regulations should be terminated, amended, or retained in their current form. The comment speaks to amending and reenacting §54.1-701 of the</p>

		Code of Virginia. Statutory changes are outside of the scope of this periodic regulatory review.
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The above noted comments were received during the public comment period following publication of the Notice of Periodic Review. An informal advisory group was not formed for purposes of assisting in the period review.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

The regulation meets the criteria set forth in Executive Order 14 (2010). The regulation contains the requirements for obtaining a license, renewal and reinstatement of licenses, safety and sanitation procedures, standards of professional conduct, to ensure competence and integrity of all licensees and that the health and sanitary standards and safety are adequate in shops, salons and other facilities where body piercing services are provided, and administer the regulatory program in accordance with Chapter Chapters 2 and 7 of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

The agency is recommending that the regulation stay in effect without change.

**Small business impact**

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

Code of Virginia § 54.1-201.5 mandates the Board for Barbers and Cosmetology to promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The Board for Barbers and Cosmetology provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals that meet specific criteria set forth in the statutes and regulations are eligible to receive a body piercer, body piercer salon, body piercer apprentice, body piercer ear only, body

piercer ear only salon. The Board is also tasked with ensuring that its regulants meet standards of practice that are set forth in the regulations.

Comments received during the public comment period revolved around a select few points, mainly; (1) the perceived lack of enforcement of safety and sanitation procedures; (2) the differentiation of ear only body piercing from body piercing. The regulation is clearly written, easily understandable, and does not overlap, duplicate or conflict with federal or state law or regulation.

The most recent evaluation occurred in 2007.

The Board discussed the regulation and, for the reasons stated in this section, determined that the regulation should not be amended or repealed, but should be retained in its current form.

### Family impact

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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No impact on the institution of the family and family stability has been identified.